

Fair Political Practices Commission

Memorandum

To: Chairman Schnur, Commissioners Garrett, Hodson, Montgomery, and Rotunda

From: William J. Lenkeit, Senior Commission Counsel
Scott Hallabrin, General Counsel

Subject: Discussion of Proposed Amendments to Gift Regulations

Date: August 30, 2010

Proposed Commission Action. Staff seeks Commission guidance regarding proposed amendments to the Political Reform Act's (the "Act") gift regulations.

Background and Reasons for Proposed Amendments to Gift Regulations. Over the past several years, the Commission has adopted numerous amendments to the Act's gift regulations. As a result of these amendments, staff has discovered some internal inconsistencies in the gift regulations that need to be addressed. Also, the amendments have triggered certain inquiries that, staff believes, point out the need for modification and clarification. Staff therefore recommends that the Commission revise and update those regulations and seeks the Commission's guidance on certain "gift" issues.

Summary of Proposed Amendments. Most of the proposed changes, both in this item and, if the Commission approves addressing staff's recommendation to review the entire gift regulation series, are submitted with the purpose of simplifying the language to make the provisions more understandable and making the regulations consistent with each other. Other suggested amendments are more substantive and either add new provisions or make changes to the current ones. Those changes are briefly addressed below in order to provide the Commission with some basic familiarity with the issues involved as we seek the Commission's guidance.

These proposed amendments are presented for discussion only. Staff plans to present these amendments for adoption at the Commission meeting in November 2010.

"Home Hospitality." Staff seeks guidance from the Commission concerning its current exception for gifts of "home hospitality." Currently, under Regulation 18942(a)(7), the cost of food, beverages and occasional lodging provided to an official in the home of an individual is not a gift to the official as long as the individual is present and is not being reimbursed for his or her costs. Staff seeks the Commission's guidance on whether this regulation should be amended to clarify that this exception does not apply to a wedding, wedding reception, or similar event held for the official in the home of the

individual. Applying the exception to situations in which the official, for example, coordinates the arrangements for or establishes the list of invitees for an event paid for and held in the home of an individual would seem to be contrary to the intent of the exception, which presumably is to permit casual social relationships without officials and their friends having to worry about gift reporting and limits. In regard to weddings, Section 89503(e)(2) exempts wedding gifts from the gift limits, which means the official only has to report those gifts. However, if the official's wedding is held in the home of an individual, the cost may not be reportable at all due to the home hospitality exception.

Valuation Rules – Regulation 18946 et seq. Regulation 18946 provides that the general method for valuation of a gift is the fair market value. Regulations 18946.1, 18946.2, and 18946.4 provide exceptions relating to free admission to various types of events. Recent changes to Regulation 18946.4 concerning valuation of tickets to nonprofit and political fundraising events have created some inconsistencies among the applicable rules. Staff proposes amending the ticket and invitation-only event valuation rules to provide consistency with the non-profit and political fundraising exceptions.

Attendance at Political Fundraisers. Regulation 18946.4 (c) states that one free admission provided to an official for attendance at an in-state fundraiser for a committee regulated by the Act or a federal campaign committee has no value. Staff believes this rule should be extended to include fundraisers, whether inside or outside California, by any federal or state regulated campaign committee. California elected officials are occasionally invited, for political purposes, to attend campaign fundraisers for federal or state candidates or committees that operate in jurisdictions outside California. Staff believes the Act's gift requirements should neither inhibit nor prevent admission to these events.